

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

*In re: National Collegiate Athletic Association
Student-Athlete Concussion Injury Litigation*

[This Document Relates to all cases]

Case No: 13-cv-9116
MDL No. 2492

Hon. John Z. Lee
Magistrate Judge Brown

**CLASS PERSONAL INJURY PLAINTIFFS' COMBINED RESPONSE TO
THE JOINT MOTION FOR 60-DAY STAY (DKT. 53) AND THE MEDICAL
MONITORING PLAINTIFFS' "AGREED" LEADERSHIP APPLICATION (DKT. 49)**

Respectfully submitted by:

Jay Edelson
jedelson@edelson.com
Rafey S. Balabanian
rbalabanian@edelson.com
Ari J. Scharg
ascharg@edelson.com
EDELSON PC
350 N. LaSalle, Suite 1300
Chicago, Illinois 60654
Tel: 312.589.6370
Fax: 312.589.6378

Robert A. Clifford
Shannon M. McNulty
CLIFFORD LAW OFFICES, P.C.
120 N. LaSalle Street, Suite 3100
Chicago, Illinois 60602
Tel: 312.899.909

Steven K. Mamat
STEVEN MAMAT, PLLC
302 S. Main St., Suite 202
Royal Oak, Michigan 48067
Tel: 248.548.1009

Brian W. Coffman
COFFMAN LAW OFFICES
2615 North Sheffield Avenue
Chicago, Illinois 60614
Tel: 773.348.1295

Samuel M. Lasser
LAW OFFICE OF SAMUEL LASSER
1934 Divisadero St.
San Francisco, California 94115
Tel: 415.994.9930

Richard R. Gordon
GORDON LAW OFFICES, Ltd.
211 West Wacker Drive, Suite
Chicago, Illinois 60606
Tel: 312.332.5200

This brief serves as a combined response to (a) the Medical Monitoring Plaintiffs' and NCAA's joint motion to stay (Dkt. 53), and (b) the Medical Monitoring Plaintiffs' "agreed" application for appointment of lead counsel for the medical monitoring claims (Dkt. 49).

With respect to the joint motion to stay, the Class Personal Injury Plaintiffs (i.e., those class members pursuing personal injury claims) do not oppose a general stay of the litigation given the continued progress that is being made through settlement talks with the NCAA. However, the Class Personal Injury Plaintiffs believe that the court should not stay the decision concerning leadership over the respective personal injury and medical monitoring classes. Indeed, prompt decision on leadership is necessary to provide the parties with a clear understanding of their roles and representations as they continue working toward resolution of this litigation—a proposition that even the Medical Monitoring Plaintiffs seem to acknowledge.¹

With respect to the latter issue, the Class Personal Injury Plaintiffs do not oppose the Medical Monitoring Plaintiffs' application for lead *to the extent that such appointment is limited to medical monitoring claims only*. Because the Medical Monitoring Plaintiffs' proposed order that was submitted along with their "agreed" leadership application is significantly broader than that²—and would encompass class personal injury issues that they have consistently repudiated—the Court should make clear that their representation is limited to medical

¹ See MDL Plaintiffs' Objection to Plaintiff Nichols' Motion to Appoint Jay Edelson as Lead Counsel of the Personal Injury Claims, Dkt. 55 at 3 (citing WRIGHT & MILLER § 1802.3) ("there may be rivalry or *uncertainty* that makes formal designation of interim counsel appropriate") (emphasis added).

² The Medical Monitoring Plaintiffs' proposed order, which is attached hereto as Exhibit 1, broadly seeks appointment as "Co-Lead Counsel for the *proposed class of current and former NCAA student-athletes*" (Ex. 1 at ¶ 1) (emphasis added), as well as "authority [to act] . . . on behalf of the putative class and all plaintiffs in this consolidated action . . . [including with respect to] "the prosecution of or resolution of their respective cases" (Id. at ¶ 5) (emphasis added).

monitoring issues.³

For these reasons, Class Personal Injury Plaintiffs respectfully request that this Court (i) deny the joint motion to stay as it relates to the resolution of leadership issues, and (ii) deny the Medical Monitoring Plaintiffs' leadership application to the extent it seeks appointment beyond the medical monitoring claims.

Respectfully submitted,

**Anthony Nichols, individually on behalf of the
Class Personal Injury Plaintiffs,**

By: /s/ Ari J. Scharg
One of his attorneys

Jay Edelson
jedelson@edelson.com
Rafey S. Balabanian
rbalabanian@edelson.com
Ari J. Scharg
ascharg@edelson.com
EDELSON PC
350 N. LaSalle, Suite 1300
Chicago, Illinois 60654
Tel: 312.589.6370
Fax: 312.589.6378

Robert A. Clifford
rclifford@cliffordlaw.com
Shannon M. McNulty
smm@cliffordlaw.com
CLIFFORD LAW OFFICES, P.C.
120 N. LaSalle Street, Suite 3100
Chicago, Illinois 60602
Tel: 312.899.9090
Fax: 312.251.1160

³ In an effort to avoid motion practice, Class Personal Injury Plaintiffs asked the Medical Monitoring Plaintiffs to clarify that they weren't seeking appointment over the class personal injury claims. This request for clarification, however, was rejected.

Brian W. Coffman
bcoffmanlaw@gmail.com
COFFMAN LAW OFFICES
2615 North Sheffield Avenue
Chicago, Illinois 60614
Tel: 773.348.1295

Richard R. Gordon
richard.gordon@gordonlawchicago.com
GORDON LAW OFFICES, Ltd.
211 West Wacker Drive, Suite 500
Chicago, Illinois 60606
Tel: 312.332.5200
Fax: 312.236.7727
Steven K. Mamat
STEVEN MAMAT, PLLC
302 S. Main St., Suite 202
Royal Oak, Michigan 48067
Tel: 248.548.1009
Fax: 248.548.1012

Samuel M. Lasser
LAW OFFICE OF SAMUEL LASSER
1934 Divisadero St.
San Francisco, California 94115
Tel: 415.994.9930
Fax: 415.776.8047

CERTIFICATE OF SERVICE

I, Ari J. Scharg, an attorney, hereby certify that on May 15, 2014, I served the above and foregoing ***Class Personal Injury Plaintiffs' Combined Opposition to Joint Motion for 60-Day Stay (Dkt. 53) And The Medical Monitoring Plaintiffs' "Agreed" Leadership Application (Dkt. 49)***, by causing a true and accurate copy of such paper to be filed and served on all counsel of record via the CM/ECF filing system on this the 15th day of May 2014.

/s/ Ari J. Scharg _____